

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JAMES C. KISTNER

Plaintiff,

vs.

CITY OF BUFFALO, *et al.*

Defendants.

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SUPPORTING DECLARATION

Case No. 18-cv-402

MAEVE E. HUGGINS, declares under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am an attorney at law admitted to practice before this Court and am an Assistant Corporation Counsel for the City of Buffalo, *of Counsel* to Timothy A. Ball, Esq., Corporation Counsel, attorney for Defendants, City of Buffalo (hereinafter "City"), Byron Lockwood (sued incorrectly here as "BRYON LOCKWOOD"; hereinafter "Lockwood"), Daniel Derenda (hereinafter "Derenda"), Lauren McDermott (hereinafter "McDermott"), Jenny Velez (hereinafter "Velez"), Karl Schultz (hereinafter "Schultz"), Kyle Moriarity (sued incorrectly here as "KYLE MORIARTY"; hereinafter "Moriarity"), David T. Santana (hereinafter "Santana"), Anthony McHugh (hereinafter "McHugh"), and John Doe(s) in the above-entitled action. In such capacity, I am fully familiar with the facts and circumstances of this litigation.

2. I respectfully offer this supporting declaration in opposition to Plaintiff's motion for partial summary judgment pursuant to Fed. R. Civ. P. 56 against McDermott, Velez, Schultz, and Moriarity (Dkt. No. 68).

3. Copies of the following documents are attached hereto as Exhibits to the Defendants' opposition and made a part hereof:

Ex. A: Buffalo Police Department Complaint Summary Reports;

Ex. B: Buffalo Police Department arrest documents, accusatory instruments, appearance ticket, and Request for Examination of a Person under Section 9.41 of the NYS Mental Hygiene Law;

Ex. C: Transcript of Plaintiff's examination under oath pursuant to General Municipal Law §50-h;

Ex. D: Transcript of Plaintiff's deposition testimony;

Ex. E: Plaintiff's medical records;

Ex. F: Transcript of Lauren McDermott's deposition testimony;

Ex. G: Transcript of Jenny Velez's deposition testimony;

Ex. H: Transcript of Karl Schultz's deposition testimony;

Ex. I: Transcript of Kyle Moriarity's deposition testimony;

Ex. J: Transcript of Anthony McHugh's deposition testimony;

Ex. K: Transcript of David T. Santana's deposition testimony; and

Ex. L: Police vehicle information.

4. Plaintiff failed to file a statement of facts pursuant to L.R.Civ.P. 56(a)(1).

5. Based upon the record before this Court, Plaintiff's motion for partial summary judgment seeking a finding that the Defendants lacked probable cause for

Plaintiff's arrest and dismissal of the Defendants' qualified immunity defense must be denied because he failed to demonstrate that he is entitled to summary judgment on those limited issues.

6. That based on the record and the argument set forth in the accompanying Memorandum of Law, the Defendants pray for an order denying Plaintiff's partial summary judgment motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2021  
Buffalo, New York

Timothy A. Ball, Esq.  
Corporation Counsel  
*Attorney for Defendants*

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